

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDWIN ALLEN STOLTENBERG,

Defendant.

Case No. 3:18-cr-00109-JMK-MMS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Before the Court at Docket 773 is Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. The motion was referred to the Honorable Magistrate Judge Matthew M. Scoble. The Government responded in opposition at Docket 775. Defendant replied at Docket 778, but that was stricken at Docket 779. Defendant moved for leave to respond in opposition and amend at Docket 782, which Judge Scoble denied at Docket 783. Judge Scoble issued his Final Report and Recommendation at Docket 784, in which he recommended that the motion be denied. No objections to the Final Report and Recommendation at Docket 784 were filed.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court "may accept, reject, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge.”<sup>1</sup> A court is to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”<sup>2</sup> But as to those topics on which no objections are filed, “[n]either the Constitution nor [28 U.S.C. § 636(b)(1)] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.”<sup>3</sup>

The magistrate judge recommended that the Court deny without prejudice the Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. The Court has reviewed the Final Report and Recommendation and agrees with its analysis. Accordingly, the Court adopts the Final Report and Recommendation, and IT IS ORDERED that the Motion Under 28 U.S.C § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody at Docket 773 is **DENIED**.

IT IS SO ORDERED this 28th day of December, 2022, at Anchorage, Alaska.

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/s/ Joshua M. Kindred  
JOSHUA M. KINDRED  
United States District Judge

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<sup>1</sup> 28 U.S.C. § 636(b)(1)(C).

<sup>2</sup> *Id.*

<sup>3</sup> *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”).